Supreme Court, U.S.
FILED

031636 JUN 1 - 2004

OFFICE OF THE CLERK

No.

In The
Supreme Court of the United States

Willard D. Gross
Petitioner,

And

Eugene Gross
Petitioner,

On Petition for a Writ of Certiorari
To the Supreme Court of Kentucky

JOINT PETITIONS FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Whether the circuit court can take jurisdiction of a case filed by a party who has never been substituted as real party in interest Rule 17.01 Pursuant to the Fourteenth Amendment of the Constitution of the United States?

Whether the circuit court loses jurisdiction in a case 10 days after the circuit court issues its final and appealable order Pursuant to the Fourteenth Amendment of the Constitution of the United States?

Whether the court can take jurisdiction in a case under an unauthorized pleading filed in fraud with the district court Pursuant to the Fourteenth Amendment in the Constitution of the United States?

Whether a party can appoint himself as administrator With the will annexed of an estate under a unauthorized Pleading filed in fraud with the district court?

Whether this court can terminate the appointment of a self appointed administrator with the will annexed under a unauthorized pleading which helped prove the Administrator committed Bank and Mail Fraud under title 18 USC Sections 1344 and 1341?

PARTIESTOTHE PROCEEDINGS

Only the parties named in the caption.

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OPINION BELOW

The opinion of the Kentucky Supreme Court is Reproduced in appendix a Pet. 1 & 2. The opinion Of the court of appeals is reproduced at Pet. App 3-8 The Order of the Circuit court is reproduced at Pet.App. 9-11

JURISDICTRION

The orders denying Discretionary Review by the supreme Court was entered on March 10, 2004. This Court has Jurisdiction under 28 USC Section 1257.

CONCISE STATEMENT OF CASE

Comes the Petitioners Eugene Gross and Petitioner Willard D. Gross and states that they have the same cause and fully agrees on all issues involved in this petition and requests this U.S. Supreme Court to allow both Petitioners to file a joint petition for Writ of Certiorari.

On May 2, 1997 district Judge Julia Tackett appointed attorney Fred Irtz as Successor Executor of C.P. Gross' Estate. Judge Tackett made this appointment without Fred Irtz appearing in court or taking the oath of office and without the will annexed. KRS 395.050 leaving Mr.Irtz without power or authority over the Estate.

Appointment was made without the courts discharge Eugene Gross; executor from is duties as executor of C.P. Gross estate. Eugene was appointed executor under his Father's will on August 28, 1991. Eugene filed a motion for substitution of real party of interest in Fayette Circuit Court third division case No. 91-CI-158 and was substituted under Rule CR25.01 replacing his father C.P. Gross as defendant in Commerce National Bank V. C.P. Gross and Willard D Gross. App.12-14.

Fred Irtz on July 15, 1997 filed a motion with the probate court for the approval of fees to be heard on July 23, 1997 and reads as follows:

Comes the Administrator, by and through counsel, and states to the court and to the heirs of the estate that he was appointed by the court on May 9, 1997. That as of this point, he has not assumed the office of Administrator De Bonis Nom Cum Testamento Annexto and has not performed any duties on behalf of the Estate. The Administrator will assume the duties of Administrator Cum Testamento Annexo De Bonis Nom on the following conditions: The administrator will charge Two Hundred Dollars ($200.00) per hour for time he spends performing his duties. The Administrator will pay to the honorable Robert C. Monk, the sum of One Hundred Twenty-five Dollars per hour for his legal services, representing the Administrator.

The Administrator will charge Thirty-five Dollars ($35.00) per hour for all time the Administrator's paralegal performs paralegal service for the benefit of the estate. It is the intention of the Administrator to have the majority of the legal and paralegal services performed by Mr. Monk and Mrs. Barkman.

WHEREFORE, the Administration prays the Court for approval of these amounts. The Administrator will tender to the court and all beneficiaries of the estate, a monthly statement for services. Further, the Administrator reserves the

right to withdraw as representative for the estate at any time if any monthly statement shall be disallows in full or in part by the Fayette District Court. Signed by Robert C. Monk Attorney for the Administrator.

In the above motion Fred Irtz has never assumed the office as fiduciary for the estate and has never taken the oath of office. Under KRS 62.030 every person before entering the duty of executor or administrator shall take in substance the following oath or affirmation "I do solemnly swear (or affirm) That I will faithfully perform the duties of (in Fred's case) successor executor according to the law."

Fred Irtz appointment reads successor executor App. 15 (without the will annexed). This appointment at a latter date was altered by the use of white, without authorized to read Succ. Admr. W/W/A. App.16 The original appointment was mailed to Fred without his appearance before the court and taking the oath of office. Eugene Gross never held the title as Administrator the court of appeals makes this claim. Fred's motion for approval of fees is an unauthorized document to gain entry to the estate of C.P. Gross.

Fred has to assume and take the oath of office before he files any pleadings in the estate KRS 62.030. Fred's unauthorized motion for approval of fees is a fraud upon the estate of C. P. Gross.

Fred Irtz, motion approval of fees is an unauthorized entry into the estate of C. P. Gross. Fred Irtz has without authority. Changed his title from Successor Executor to administrator with the will annexed. Fred Irtz has forged his own appointment as administrator with the will annexed.

Fred Irtz filed and mailed a statement for fees dated September 1, 1997 to be heard before the court on September 24, 1997. (App.17-19.) In this statement for fees Fred has retroactive his charges for fees to June 30, 1997. Fred has charged the estate $2,312.20 from June 30 1997 through July 23, 1997 for no service. Fred states at the hearing held on July 23, 1997 that he has performed no services for the estate. Fred's total charges for fees to September 1, 1997 are a total of$3,734.97.

Fred Irtz has yet to assume or take the oath of office. He is operating under his unauthorized document he filed to gain entry to the estate of C. P. Gross on July 15, 1997. Fred is still operating under fraud.

Fred Irtz II filed a Fiduciary Bond Form with the probate clerk for appointment as fiduciary for the estate of C.P. Gross App No.20-21 to be heard on September 24, 1997 by Judge Julia Tackett, This the same day Fred's motion for approval of fees was heard before the court. Fred Irtz, Robert C. Monk and clerk Carla Million signed this form. Willard received an attested copy signed

by chief clerk Marilyn Taylor of the fiduciary bond form showing only three signatures and a post-it sticker initialed by M.H. App.20-21 With Willard holding a copy of the fiduciary bond form the court and Fred Irtz did not go through with their conspiracy to complete the bond form and place it into the record that it was executed on May 2,1997.

After the records of this case came back from the court of appeal in February 2000 the post-it Sticker was removed and the fiduciary bond form was completed. App 22

The fiduciary bond form now reads In re: Estate of Caleb Powers Gross, deceased Fredrick G Irtz II having been appointed to Act as Administrator by order of the Fayette District Court Retroactive to the 2nd day of may 1997 the principal and surety do hereby covenant to and with the commonwealth of Kentucky in the sum of $ no funds received at the time. This bond form was now signed by district Judge Julia Tackett.

This fiduciary bond form clearly shows that it has been made retroactive and now falsely states in the history record that it was filed on May 2,1997, the same day Fred was appointed Successor Executor and mailed to Fred Irtz. This fiduciary bond form shows that it was filed with the probate clerk for hearing on September 24, 1997. This Bond Form does not appoint Fred with the will annexed. KRS 395.050

Under Sparks V Craft.75 F 3d (6 cir 1996) holds Ky. Rev. Statutes and section 446.080 (3) Michie 1995) Expressly provides "no statutes shall be construed to be retroactive unless expressly so declared." The Supreme Court has recently stated the rule against retroactive application of statute is strictly construed Hamilton V. Desperado Fuel Co. Inc. 868 S.W.2d 95-97.The fiduciary bond carries 4 statutes, KRS 62.060. 395.130, 395.140 and 454.180—185.

Fred filed monthly statements for fees with the court for approval, each time he charged the estate at least $700.00. Fred filed his monthly statement for the month of May 1998 for approval, this statement has two entries (1) on May the 18, 1998 for $93.75 this for reviewing materials and one on May 28,1998 for the amount of $31.25 this also was for reviewing materials. Both entries come to $125.00. Fred Irtz and Judge Julia Tackett enter into an agreement (one could say A conspiracy) to allow Fred to collect this kind of money from the estate. App. 23-24.

On April 28, 2000 Fred issued himself a check on the estate bank account in the amount of $32,71225. This check included the amount that Fred charged for no service $2,312.50. This money was held in the control of a Financial Institution. The Central Bank and Trust of Lexington, Kentucky. Fred Irtz has committed Bank Fraud.

Under Title 18 USC Section 1344 Bank Fraud; To obtain any of the money, funds, credits, assets, securities or other property own by, or under the custody of a Financial Institution, by means of false or fraudulent pretense, representation, or promises; shall be fined not more than $1,000,000.00 or imprisoned not more than 30 years or both.

Fred Irtz has admitted in his pleadings that he has padded his services for work he did not perform. Fred Irtz has committed mail fraud. Under Title 18 USC Section 1341 elements (1) (2). Such person shall be fined and no more than $1,000,000 or imprison not more than 30 years or both.

Under an unauthorized document and forging his own appointment as administrator in the estate of C. P. Gross, Fred Irtz has paid himself $101,742.20 to date of April 26, 2004 for 508 hour of service this is a lot of money for being an Administrator to sort out $500.000.00 cash Estate. The records of this case will show that Attorney Robert Monk answered and filed all pleadings in this case and handled all legal service. Fred Irtz paid Mr. Monk approximately $39,000.00 to date April 26 2004.

Six (6) heirs signed petition and filed motion for the termination of Fred Irtz appointment as Successor Executor on August 25, 1997. The court, Judge Tackett, sealed this motion on August 25, 1997. [case history]

The heirs filed motion for the disqualification of judge Tackett on August 25, 1997. The court, Judge Tackett, sealed this motion on August 25, 1997 [case history.]

Six (6) heirs filed separate motion for the termination of Fred Irtz unlawful Appointment as administrator of C.P. Gross Estate. App No. 25-30 Judge Horne heard these motions On April 3, 2000. Judge Horne OVERRULED Willard's motion, Willard objected, the court Accepted, Willard gave oral order that he would appeal. Judge Horne Refused to issue an Order OVERRULING Willard' motion.

On April 10, 2000 (Willard still waiting for an Order OVERRULING his Motion) filed his OBJECTION to the probate court holding any hearing on any other Issues until Motions to Terminate Fred's Irtz unlawful appointment as administrator Of Caleb P. Gross' Estate had been finalized. App 39. Judge Horne disposed of all six Motions filed by the heirs of C.P. Gross without NOTICE OR CAUSE.

(The case history erroneous States that Willard's Objections were filed by Willard D. Gross II on April 10, 2000) On February 18, 2000 Fred Irtz filed a response to motion to terminate. App 31-34 In paragraph (2) line (7) Fred Irtz states "First, the oath of office was taken by the administrator upon completion of the bond form which is contained in the record. The

bond form was filed with probate clerk for hearing to be held on September 24 1997. App 20. The fiduciary bond form was not completed until the first part of February 2000.

If Fred Irtz actually took the oath of office, he took it the first part of February 2000. Without an open hearing before the Court. Under KRS 62.030 Fred had to take the oath of office before entering the case of C.P.Gross' Estate. Instead Fred entered into the estate case by an unauthorized document.

Fred Irtz on February 18, 2000 filed a response to motion to terminate. Fred has knowingly stated several false statements (1) Fred was appointed Successor Executor on May 2, 1997. Fred states "when this Administrator was appointed his appointment was immediately appealed to the Fayette Circuit Court".

Willard appealed Fred's appointment as Successor Executor 27 days after his appointment on May 29, 1997. (case hist.) In Fred's Response he is saying that Willard stole his father's CD's. There was nothing stole from C.P. Estate, by Willard. Fred Irtz, is the person that stole the most of the estate.

Willard raised In Circuit Court that Fred stole the Children's Money from the Master Commissioner. Judge Noble raised her eyebrows about the statement made by Willard. Willard explained to Judge Noble, that Fred Irtz had accused Willard, several times in Probate Court of stealing the CD's. Judge Noble stated to Fred

that she ruled in her Opinion and Order that his father gave his CD's to Willard and gave Willard his power of attorney.

Fred Irtz knowingly and unlawfully took $ 41,000.00, which belong to the Children of C.P Gross from the master commission and would not admit that he had this money for 1 year and 21 days. To Willard this is stealing.

Fred has knowingly applied the wrong dates issued by the court of appeals in his response. That Willard filed a motion on January 10, 2000 and the court denied this motion on January 18, 2000. The administrator expecting a motion for review to the Supreme court with in 30 days of this order (February 17, 2000). The exact dates, the court of appeals denied Willard's motion on January 10, 2000.

The 30 days for filing a review with the Supreme Court ended on (February 9, 1997). Fred Irtz filed this false information to show that Willard filed his Motion to Terminate his appointment before the record was received by the probate court from the Court of Appeals; also to show that the post-it sticker was not removed from the Fiduciary Bond after the record was received by the probate clerk.

Fred states that the Fayette Circuit Court upheld the appointment of this Administrator. The Fayette Circuit Court upheld his appointment as Successor Executor.

Fred Irtz prepared and filed his response on February 28 2000, for his defense to the Motion to Terminate to be held on April 3, 2000. In Fred Irtz's statement for fees issued on April 01,2000, Fred Irtz charged the estate as follows:

3/17/2000	FGI	Probate	
		Prepare for hearing conf. With Robert Monk conf. With Tom Burnett	$ 350.00
3/29/2000	FGI	Probate	
		Prepare for April 3, 2000 hearing etc	$1,900.00
	RM	Probate	
		Prepare for hearing. Meeting Fred Irtz	$ 406.25
3/30/200	FGI	Probate	
		Prepare for hearing. Etc	$ 1,550.00
	RM	Probate	
		Prepare for removal hearing	$ 562.00
		Meet with Fred Irtz	
3/31/2000	RM	Prepare for hearing meet Fred Irtz	$ 718.75
3/31/2000	FGI	Probate	
		Prepare for hearing. Estate Probate	$1,800.00
3/31/2000	PARA	Prepare for hearing Estate/Probate	$ 105.00
		Total	$7,392.50

STATEMENT OF CHARGES LISTED

UNDER APP. 35-38

Plus what Fred Irtz charged for preparing his response filed on February 18, 2000. In this, Fred has charged the Estate 2 times for preparing for the same hearing on April 3, 2000. Fred Irtz in his response asks the court to overrule Mr. Gross' motion. When Judge Horne call the case before the court, Judge Horne stated Mr. Gross I'm overruling your motion, Willard Objected, Judge Horne accepted and Willard gave the court an oral notice of appeal. Judge Horne said that is as for as we can go.

Judge Horne got up to leave and sit back down and said lets have a get together meeting. Fred Irtz who charged the estate up to $ 8.000.00 for preparing to hear motion on April 3, 2000 did not get to address the court. All of his etc is bunk.

Fred Irtz charges for fees are known as padding hours for his service. This is also known as Mail FRAUD and Bank FRAUD in That Fred issued himself a check for payment on the Estate of C.P.Gross. Money deposited in a Financial Institution. Under Title 18 USC Sections 1341 and 1344.

Fred Irtz has never filed a motion with the circuit court substituting Fred Irtz as real party in interest. The record will show this fact. Under Ky. rules of civil procedure Rule 17.01 Real Party in interest. Every action shall be prosecuted in the name of real party in interest.

Fred Irtz is also in violation of Rule 76.24 (b) (a) substitution of parties in appellate court (b) substitution for other causes than death. If substitution of a party in the appellate court is necessary for any reason other than death, substitution shall be effected in accordance with the procedure proscribed in subdivision (a) The motion of a party shall be served upon the representative in accordance with provisions of Rule 25. Fred Irtz has never filed a motion in Circuit court, Court of Appeals. Or Supreme Court for substitution as real party in interest nor has these courts issued and orders substituting Fred Irtz. Fred has never filed or served a motion.

Fred Irtz was prosecuting this case in the name of Eugene Gross. The face of pleadings and Orders filed with the court will prove this fact. Fred Irtz does not have standing in the Circuit Court, The Court of Appeals, and in the Supreme Court of Kentucky. Eugene Gross is the executor of record in the probate court, the circuit court, the court of appeals and the Supreme Court

of Kentucky. Fred Irtz does not have standing in the probate court, because he entered the case of the estate by filing an unauthorized document and did not take the oath of office. Eugene Gross has never been discharged as executor of C.P Gross' Estate. Fred Irtz has pulled a scam on the estate of C.P. Gross.

Fred Irtz in this case on appeal filed a motion for declaration of rights on May 25, 2001in the Circuit Court Fifth Division case Nos. 91-CI-158 and 91-CI-2907 which has been consolidated. Fred Irtz knowingly picked up money form the master commissioner for 3 $10,000.00 CD's plus interest for several years belonging to C.P. Gross' children on April 4, 2000. The children had been trying to locate this money for over 1 year.

Fred Irtz denied he had this money and tried to get closure in this case by the end of year 2000. Fred Irtz would never admit that he had this money. Finally, Fred admitted he had this money when he filed his motion for declaration of rights, on May 25, 2001, this 1 year and 21 days after he unlawfully took this money from the master commissioner. If Fred had got closure by the end of 2000 he would have gotten away with stealing the children's money.

Fred made the excuse that he had picked up this money inadvertently from the master commissioner, which by this time amounted to over $41,000.00. How can a $200.00 an hour

administrator not knows he has $41,000.00 to much money. Willard Gross objected to Fred's excuse the court allowed Fred Excuse that he inadvertently picks up $41'000. 00 to much money and that he did not discover this money for one year and 21 days. Willard appealed this issue in his Legal Argument II: The trial court ERRED in holding that attorney Fred Irtz inadvertently took C.P.Gross' children's money from the master commissioner.

Legal Argument I The trial court erred in that the circuit court lost jurisdiction of this case to amend its Order 10 days after issuing its final and appealable Order on June 25, 2001. A motion to amend order was filed on July 23, 2001 this being 28 Days after the final and appealable order was entered. The Court of Appeals erroneous stated that Willard did not appeal the final and appealable Order issued by the circuit court on June 25, 2001.

This order is the first attachment after his conclusion in Willard' Brief, To the court of appeals. In Willard' introduction the first sentence states "this is an appeal from a final and appealable Order issued by the Fayette Circuit court on June 25, 2001. Under Commonwealth V. Gross Ky., S.C. 936 S.W. 2d 85 holds under CR 59.05 the trial court lost jurisdiction to alter, amend of vacate its judgement after the expiration of 10 days of its entry, The Court of Appeals has showed nothing but bias against the petitioners. Legal Argument III the Trial Court ERRED in that the

circuit court could not take jurisdiction in this case under motion filed by Fred Irtz as administrator. Fred has never been substituted a real party in interest. Eugene Gross was named Executor in this appeal because he was the Executor of Record.

Fred Irtz filed his motion for Declaration of rights on the face of his Motion Fred names Eugene Gross as Executor. With the knowledge the petitioners had against Fred Irtz they were forced to appeal this case in the name Of Eugene Gross, Executor.

Eugene Gross filed notice with the court of appeals that he was the executor of record in the estate of C.P, Gross and serviced Fred Irtz with his Notice. Willard Gross service Fred's attorney Robert Monk with his notice of appeal, his clarification of parties, and his pre-hearing statement. Fred Irtz had plenty of time to file a motion before the court of appeal and lay claim that he was the administrator of C. P Gross' estate. Fred failed to file his motion. Fred Irtz knew that he was not the administrator of C.P. Gross estate.

The court of appeals dismissed Willard D. Gross and Eugene Gross' appeal for the reason having determined that Willard failed to name an indispensable party (Fred Irtz). We must dismiss the appeal. Willard did name the necessary party of C.P Gross' Estate, Eugene Gross. Eugene is the only person ever to be substituted as real party in interest in the estate of C.P. Gross. (App. 12)

Fred Irtz does not have standing in the circuit court in that he has never been substituted as a real party in interest. Rule 17.01

What the record does not show in this case, is Willard offered through his attorney (In that Willard's father gifted this money to him, he would gift the money back according to the will to the widow and the heirs. This before the case came before the court. The attorneys stopped this action because it would kill their gravy train.

The Court is trying to play Willard as the bad guy. The Circuit Court in its opinion and order issued on October 2, 1996, Ruled that C.P. Gross gave Willard his CD's and he gave Willard his Power of Attorney.

The reason that circuit judge Noble put these CD's back into the estate there was at least 6 attorneys who claim and filed their claims that the estate owed them approximately $ 99.000.00, for representation. Judge Noble was forced to put this money back in the estate so they could collect their claims.

Laura Gross filed a complaint against the PNC Bank for $50,000 the estate intervened and the suit was for $100.000. On March 8, 1995, this case was held in abeyance and is still a live suit.

Judge Noble took complete charge of this case. On 11/21/95 Judge Noble issued and Order for jury Trial to be held on May 15,

1996. Willard demanded a jury trial. On April 17,1996 Judge Noble issued an order for a court (bench) trial. In this Judge Noble Had complete control of the outcome of the trial and $500.000 in case money.

Judge Noble gave a judgement against Willard for $100,000 this the same $100.000 held in abeyance in a suit against the PNC Bank on March 8, 1995. Judge Noble was befriending a monster Bank and robing a poor man.

Fred Irtz has been aware of this suit against the PNC Bank not Willard Gross since the year of 1997. Eugene testified in probate that his suit was against PNC Bank. The Court Order filed on March 8.1995. ORDER TO HOLD IN ABEYANCE Claim asserted by Laura against PNC Bank to be held in abeyance.

Fred Irtz has refused to raise this suit before the circuit court. Fred has also befriended a monster Bank and robing a poor man. Fred Irtz has refused to collect other debts owed to the estate in the approximate amount of $ 30,000. Under KRS law Fred Irtz appointment should be terminated for refusing to collect funds of the estate. Also Fred is responsible for the $100,000 suit against the PNC Bank. Not Willard.

The Court of Appeals has raised at least 6 erroneous issues in their Order dismissing petitioners appeal. They have no reason for this type of action other than the petitioners or pro se.

In that the court of appeals raised issues back to May 2,1997 this open the door for the petitioners to do the same.

On April 26, 2004, Fred Irtz filed his first partial settlement and proposed final settlement. App 41-48. Fred Irtz did not present to the court or heirs any copies of the checks that he has issued on the Estate or 12 check that he had void. Fred Irtz used (4) different sequence of checks. This gives the appearance of wrongdoing.

Fred Irtz did not present in his settlement a timetable for the 508 hours for his fees of $ 101,742.20 and for his attorney's fees for over $ 39,000. Fred did not present any invoices or receipt

In this settlement paragraph (4) Fred States: The Administrator W/W/A proposes to retain $30.000 to offset additional fees caused by appeals to the court's Order regarding this accounting. Fred Irtz Already knows that his settlement is going to be approved by the court District Judge Kevin Horne .

Fred in his settlement, in paragraphs 8 & 9 the administrator proposes to distribute to the estate of Laura Gross, out of the funds remaining in his hands, and as a partial distribution the additional sum of & 52,177.46. The administrator proposes to distribute from the remaining funds in his hands as a partial distribution as follows: Lillian A. Feghali, Daughter of C.P. Gross, $ 8,088,89,

Eugene Gross, Son of C.P.Gross, $ 17,042.30. Fred Irtz has cheated Eugene Gross out of all his inheritance (which would be very little according to Fred Irtz accounting) and $7,000.00 for recovering $500,000.00 for the estate pursuant to KRS 395.150 which allows Eugene to recover 5% of what he recovers. This comes to $25,000.

Eugene accounted for all money that he spent as Executor. Eugene stated this to the probate court and asks Judge Kevin Horne to hold the proof that he did not trust Fred Irtz. Judge Horne refused to accept Eugene's proof he then turns the proof over to Fred Irtz.

Fred Irtz is claiming that all of the money he is holding for the Estate of C.P.Gross is $107,308.61. as of April 26,2004. Willard filed his objections to Fred's settlement on May 1, 2004 hearing to be on May 3, 2004. App 49-50 Judge Horne stated that Fred Irtz did not have to produce copies of checks he had issued in the estate, checks he had voided, invoices, and receipts.

Judge Horne approved Fred Irtz settlement by Order issued on May 4, 2004 App. 52 pursuant to settlement filed by Fred on April 26, 2004, Willard filed his objections to the courts Order of May 6, 2004, and moved the court to immediately remove the this case from Fayette County Courts and be placed in another Jurisdiction. The Federal Court. App. 53

In Judge Horne's Order, Fred Irtz and Judge Kevin Horne has found another $25,577.34 in the estate of CP.Gross. Judge Kevin Horne placed this money in Laura Gross estate. The order gave no explanation where this money came from. This raised Laura Gross' Estate amounts to $77,756.88. It took Fred Irtz I Year and 21 days to find out that he had $41,000.00 to much money in the estate of C.P. Gross. This money belonging to C.P. Gross' Children. This Time it took Fred Irtz 24 hours to find out that he had $ 25,575,88 to much money in the estate. This happen because Willard informed Judge Horne that the heirs were going to have an audit of Fred's settlement.

Laura Gross' Estate has two co-executors Lillian Harbison 5762 Second Ave., Hileah FL 33012 and Ollie Baker of Oklahoma. Tom Burnett 156 Market Street Lexington, KY40507 Is their attorney.

Tom Burnett, Fred Irtz, and Judge Kevin Horne gives strong appearance that they entered into a conspiracy to steal this $25,575.88 from the Bank Account of C.P. Gross' Estate. This money belonging to Laura Gross' Estate. This would have been easy for Tom Burnett to cover-up in that the Executors live 1000 miles from Lexington. If the scheme had worked. All Tom would have to do is to show them the settlement filed by Fred Irtz showing Laura's sum $52,177.46. Tom Burnett did not show up in

Court to protect his clients at hearing held on May 3, 2004. Also, Tom did not file an objection to Fred's Settlement of April 26, 2004.

Tom Burnett uses a forged court order to bring C.P, Gross before the mental health court under a petition for disability.
In this Fred Irtz has again violated 18 USC section 1344 Bank Fraud and section 1341 Mail Fraud. Who ever executes, or attempt to execute, a scheme or artifice; whoever, having devised or intending to devise any scheme or artifice to defraud.

The heirs accountant found this missing $25,575.88 in a very short time and stated he could not go any further until he received copies of all of the check that had been issued on the estate. Willard explained that he had to file an appeal before he could get copies of the checks. The accountant spoke with wisdom, you may never get the checks the way the Ky., courts protect each other.

REASONS FOR GRANTING WRIT

The petitioners request that this court accept their Concise Statement as reasons for granting the Writ.

CONCLUSION

Petitioners respectfully request for a writ of certiorari be granted and reverse the court of appeals decision. In that federal statutes have been violated the petitioners request that this case be placed under federal jurisdiction. Petitioners on May 6, 2004 moved the District court to place this case in the jurisdiction of the Federal Court. App 53. There have been several forged documents filed in C. P. Gross' estate. The following authorities have been notified and they failed to take any action. Kentucky AOC, KBA, Attorney General, Department of Justice, Commonwealth of Kentucky Fayette County, Fayette County Attorney, who stated that crimes had been committed and the Kentucky State Police.

Respectfully Submitted,

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APPENDICES

App. 1

SUPREME COURT OF KENTUCKY

2003-SC-0226-D

(2002-CA-0352-MR)

EUGENE GROSS, AS EXECUTOR OF THE ESTATE OF C.P. GROSS — MOVANT

FAYETTE CIRCUIT COURT

1991-CI-0158

v.

WILLARD D. GROSS — RESPONDENT

ORDER DENYING DISCRETIONARY REVIEW

The motion for review of decision of the court of appeals Is denied.

Keller, J., not sitting.

ENTERED; MARCH 10, 2004.

John Lambert

Chief Justice

App 2

SUPREME COURT OF KENTUCKY

2003-SC-0242-D

(2002-CA-0352-MR)

WILLARD D. GROSS MOVANT

FAYETTE CIRCUIT COURT

V. NO. 1991-CI-0158

EUGENE GROSS, AS EXECUTOR,
OF THE ESTATE OF C.P. GROSS RESPONDANT

ORDER DENYING DISCRETIONARY REVIEW

The motion for review of the decision of the Court of Appeals is denied.

Keller,J., not sitting.

ENTERED: March 10, 2004

John Lambert
Chief Justice

COMMONWEALTH OF KENTUCKY

COURT OF APPEALS

2002-CA-000352-MR

Willard D. Gross Appellant

APPEAL FROM FAYETTE CIRCUIT COURT

HONORABLE MARY C. NOBLE, JUDGE

ACTION NO. 91-CI-00158

V.

Eugene Gross, as Executor

Of the Estate of C.P. Gross Appellee

OPINION AND ORDER DISMISSING APPEAL

****

BEFORE: BAKER, GUIDUGLI AND SCHRODER, JUDGES.

GUIDUGLIE, JUDGE. Willard Gross (hereinafter "Willard"), proceeding pro se, has appealed from the Fayette Circuit Court's September 20, 2001, order and from the January 16, 2002, order,

which made the previous order final and appealable. The only appellee named was Eugene Gross (hereinafter "Eugene"), as the Executor of the Estate of Caleb P. Gross. Having determined that Willard failed to name an indispensable party, we must dismiss the appeal.

This matter involving the Estate of Caleb P. Gross has had a long history in both the district and circuit courts of Fayette County as well as in the appellate courts. A previous three-judge panel of this Court affirmed the circuit court's order regarding five contested $100,000 certificates of deposit. The subject matter of present appeal began with the filing of a motion for declaration of rights by Fred Irtz (hereinafter "Irtz"), the current administrator of the Estate of Caleb P. Gross, seeking guidance and direction as to three $10,000 certificates of deposit turned over to him by the master commissioner. On June 25, 2001, the circuit court ordered the administrator to pay $13,977.28 to each of Caleb's three children, equaling the original $10,000 value of each certificate of deposit and the accrued interest. The circuit court made the order final and appealable, and no appeal was taken from the order.

1 .In Gross v. Gross, appeal No. 1997-CA-002037-MR and cross- appeal No. 1997-CA-002132-MR, this court affirmed the circuit court's July 14, 1997, order allowing the Estate to recover $100,000 and interest from Willard.

1. Eugene, Caleb's son and Willard's brother, was the original administrator of the Estate until her resigned on February 14, 1997. On May 2, 1997, the probate division of Fayette District Court appointed Fred Irtz as Successor Administrator with Will Attached. Attorney Robert Monk has represented Irtz throughout the proceedings.

On July 23, 2001, order to allow for an offset of the money due and payable to Willard by the Estate against the judgment he owed to the Estate. On September 20, 2001, the circuit court entered an order ruling on several motions, in particular granting the estate's motion to amend. In doing so, the circuit court allowed the $10,000 and interest awarded to Willard to offset and reduce the Estate's judgment against him. At a September 28, 2001, motion hour hearing, the circuit court denied Willard's motion to void a portion of its September 20, 2001, order, reasoning that the Estate's motion to amend was in the form of a CR 60.02 motion to correct the judgment, which the Estate had one year to file. On January 16, 2002, the circuit court amended the September 20, 2001, order to make it final and appealable. This appeal followed.

On appeal, Willard argues that the circuit court lost jurisdiction to amend its June 25, 2001, order because the Estate did not file its motion within ten days that the circuit court erred in holding that Irtz's withholding of the money was merely

inadvertent, and that the circuit court could not take jurisdiction of the case because Eugene Gross was still the Executor of the Estate. Eugene, also proceeding without counsel, filed a pro se brief accepting Willard's recitation of the facts and joining his brief.

Upon filing of the notice of appeal, the Clerk of this Court requested clarification from Willard regarding representation of the parties listed in the notice of appeal. On February 19, 2002, Willard filed his response, indicating that he was the appellant and that Eugene Gross, as the appointed Executor of the Estate of Caleb P. Gross, was the appellee. Willard indicated that Eugene's last known attorney of record was Jerry Wright. Our review of the certified record indicates that Eugene resigned as executor of his father's estate in 1997 and that Jerry Wright moved, and was permitted by the circuit court, to withdraw from his representation of Eugene the same year. Furthermore, the probate court appoints Irtz as the successor administrator of the estate on May 2, 1997. From that point, the circuit court served Irtz, through his counsel, with court documents. Moreover, in his first appeal to the Court of Appeals, Willard, then represented by counsel, named the Estate of Caleb P. Gross as an appellee, and served Irtz as administrator for the Estate. However, Irtz was not named as a party in the present appeal. Rather, Willard identified Eugene, as the executor of the Estate, as the sole appellees....."

Pursuant to CR 73.03 (1), "[t] he notice of appeal shall specify by name all appellants and all appellees..." Furthermore, "[f] ailure to specify any party whose absence prevents the appellate court from granting complete relief among those already parties would be fatal to the appeal." Braden v.Republic-Vanguard Life Ins.Co., Ky., 657 S.W. 2d 241, 243 (1983). Sell also Commonwealth , Dep't of Fin., Div. Of Printing v. Drury, Ky., 846 S.W. 2d 702 (1992). Here, the Estate, through Irtz, participated fully before the circuit court. However, Irtz was not named as an appellee in the present notice of appeal, his attorney was merely sent a courtesy copy of the clarification response, and did not file a brief or otherwise participate in the appellate process. Eugene obviously sided with Willard, going so far as to join in his brief and his arguments. This is the opposite stance from that taken by the Estate before the circuit court. Therefore, the Estate was not afforded the opportunity to defend the appeal. Because the subject matter of this appeal deals with an issue raised by the Estate below, the present administrator of the Estate is a necessary party to the appeal so that the Estate's interest may be adequately protected. Irtz, as the current administrator of the Estate, is a necessary party to the appeal, and Willard's failure to name him is fatal.

For the foregoing reasons, the above-styled appeal is ORDERED DISMISSED.

ALL CONCUR.

ENTERED: February 28, 2003

JUDGE, COURT OF APPEALS

Brief for Appellant, pro se:
Willard D. Gross
Lexington, KY

Brief for Appellee, pro se:
Eugene Gross
Harlan, KY

Jun 25 2001

COMMONWEALTH OF KENTUCKY

FAYETTE CICUIT COURT

CIVIL BRANCH

FIFTH DIVISION

No. 91-CI-158

No. 91-CI-2907

Laura Gross Plaintiff

v.

Willard D. Gross

Et and All Defendants

ORDER

Commercenational Bank Plaintiff

v.

Eugene Gross, ET AL. Defendants

This matter having come on for hearing on the motion of the estate, by counsel, and the estate having informed the Court that it had inadvertently taken possession of the proceeds of three certificates of deposit with the Court's opinion, entered October 2, 1996, concluded were not estate property and for which the estate

requested the Court's direction of payment and the estate having made a reasonable accounting for the interest which had accrued on the specific amounts which formerly represented each of the certificate of deposit amounts, and the Court having heard argument of counsel and the parties, and being otherwise sufficiently advised:

IT IS HEREBY ORDERED AND ADJUDGED, that the Administrator of the estate of Caleb P. Gross shall pay the sum of $13,977.28 to each of the three children an amount which represents the current value including interest of the funds of each certificate of deposit.

This is a final and appealable order, there being no just reason for delay.

_____

JUDGE, FAYETTE COUNTY COURT

TO BE ENTERED

JUNE 25, 2001

Robert C. Monk

Attorney for the Administrator, W/W/A

_____

Thomas Burnett

Attorney for Laura Gross

_____

Steven Wides

Attorney for Willard GrossII, Jane Gross,

Caleb P. Gross, II, William Gross

This ORDER not presented to Willard Gross pursuant to RFCC19.B.3.

App. 12

Fayette Circuit Court

Civil Branch

Third Division

Case No. 91CI-158

COMMERCENATIONAL PLANTIFF

MOTION FOR SUBSTITUTION OF PARTY;NOTICE

C.P. GROSS AND DEFENDENTS

WILLARD GROSS

****

Comes the Movant, Eugene C. Gross, by counsel, and pursuant to CR 25.01 (1) moves this court for an Order substituting him as a party defendant for C.P. Gross, who is deceased. In support of his motion, the Movant states as follows:

C.P. Gross died on June 5, 1991. A copy of his death certificate is attached, designated Exhibit "A", and incorporated by reference herein. By order of the Fayette District Court, entered August 28, 1991, Movant was named the sole Executor of the estate of C.P. Gross. A copy

of that order is attached, designated Exhibit "B", and incorporated by reference herein.

CR 25.01 (1) states:

If a party dies during the pendency of an action and the claim is not thereby extinguished, the court, within the period allowed by law, may order substitution of the proper parties.... The motion for substitution may be made by the successors or representatives of the deceased party or by any party.....

Furthermore, KRS 395.195 (19) states that a personal representative of an estate may "[p]rosecute or defend claims, or proceedings in any jurisdiction for the protection of the estate."

This case is already exerting a powerful influence over the estate of Caleb P. Gross. Not only does the case directly concern the question of the estate's ownership of $100,000 certificate of deposit; but a restraining order has been issued in this case which effectively has stayed the collection of the estate" assets. Thus, for the protection of the estate, Movant is entitled to be substituted as a party defendant for the late C.P. Gross.

CONCLUSION

For the reasons set forth above, the Movant, Eugene C. Gross, respectfully requests that this Court enter an Order substituting him, as Executor of the Estate of C.P. Gross, as a party defendant in this case.

NOTICE

The parties will hereby take notice that the above Motion will be heard on Friday, September 27, 1991 at the hour of 10:00 am, or as soon thereafter as counsel may be heard, at the Fayette County Courthouse, Lexington, Kentucky.

Respectfully submitted,

Barry M. Miller
Counsel for Eugene Gross,
Executor of the Estate of C.P. Gross

App. 15

Commonwealth of Kentucky

Fayette District Court

Probate Division

IN RE: CASE NO. 91-P-1247

THE ESTATE OF CALEB P. GROSS

ORDER

****

The Matter being on for a hearing on April 9, 1997 for the court to appoint **Successor Executor** in above styled matter and the court having taken testimony;

IT IS HEREBY ORDERED that an independent third party be named in the interest of all of the beneficiaries. The court hereby appoints the Honorable Fred Irtz, **Successor Executor**. This is a final and appeal order.

This the 2nd day of May, 1997.

Julia Tackett

JUDGE, FAYETTE DISTICT COURT

App. 16

Commonwealth of Kentucky

Fayette District Court

Probate Division

IN RE: CASE NO. 91-P-1247

THE ESTATE OF CALEB P. GROSS

ORDER

****

The Matter being on for a hearing on April 9, 1997 for the court to appoint **Successor Admr.** in above styled matter and the court having taken testimony;

IT IS HEREBY ORDERED that an independent third party be named in the interest of all of the beneficiaries. The court hereby appoints the Honorable Fred Irtz, **Succ.Admr. W/W/A**. This is a final and appeal order.

This the 2nd day of May, 1997.

Julia Tackett

JUDGE, FAYETTE DISTICT COURT

App. 17

Commonwealth of Kentucky

Fayette District Court

Probate Division

IN RE: CASE NO. 91-P-1247

THE ESTATE OF CALEB P. GROSS

Comes the Administrator, by Counsel, and moves the Court of approval of the attached statement as a proper administration expense of this estate.

Robert C. Monk

111 West Short Street

Lexington, KY 40522

ATTORNEY FOR ADMINISTRATOR

Frederick G. Irtz, II
Attorney at Law
P.O. Box 22777
Lexington, Kentucky 40522

Estate of Caleb Gross September 1, 1997

STATEMENT

Invoice #11142

	Hrs/Rate	Amount
06/30/97 FGI Probate Dictate & prepare Motion, Conference with Probate Clerk Estate/Probate	.75 200.00	150.00
FGI Litigation Review Appeal. Appeal	1.00 200.00/hr	200.00
FGI Litigation Letter to Harlan Attorney Re: Lawsuit	0.50 200.00	100.00
07/15/97 RM Probate Preparation & filing of Motion for Approval of Fees. Estate/Probate	0.75 125.00/hr	93.75
07/17/97 RM Litigation Prepare Counter statement of Appeal	2.50 125.00/hr	312.50
07/18/97 RM Litigation Prepare Counter statement of Appeal	3.50 125.00/hr	437.50

	Hrs/Rate	Amount
07/22/97 FGI Litigation Read Appeal Documents Appeal	1.50 200.00/hr	300.00
FGI Probate Prepare for Probate Court Motion Hour. Estate/Probate	1.50 200.00/hr	300.00
07/23/97 FGI Probate Attend Probate Court Motion Hour. Estate/ Probate	1.25 200.00/hr	250.00
FGI Litigation Prepare Motion for Enlargement of Time Appeal	.75 200.00/hr	150.00
RM Litigation Prepare Motion for Enlargement of Time Appeal	.50 125.00/hr	62.50
RM Probate Attend Motion Hour, District Court, Probate Division Estate/Probate	1.25 125.00/hr	156.25
		$ 2,312.70

FIDUCIARY BOND

AOC-825 Doc. Code: BF
Rev. 11-95
Commonwealth of Kentucky
Court of Justice

Case No._____
Court _____
County _____

KRS 62.060, 395.130, 395.140
454.180-185

In Re: Estate of _____ having been appointed to act_____by the order of _____ Court on the_____ day of_____, 19_____, the principal and surety do hereby covenant and with the Commonwealth of Kentucky in the sum of $_____, for the use and benefit of all parties interest herein and that the principal will faithful perform and discharge all the duties of the aforesaid trust according to law.
POST-IT STICKER shows hearing to be held on September 24, 1997 before Judge Tackett. Initial by M.H.

Taken and subscribed before me this_____day of _____, 19_____.
A true copy attested Robert True, Clerk
Fayette Circuit Court By Marilyn Trayler, Clerk

Frederick G. Irtz, II
(Name of Principal)

111 W. Short Street
Lexington, KY 40507

App. 21

Carla Million

(Clerk)

Robert Monk
(Name of Attorney)

FIDUCIARY BOND

AOC-825 Doc. Code: BF
Rev. 11-95
Commonwealth of Kentucky
Court of Justice

Case No. 91-P-012470
Court- District/Probate
County- Fayette

KRS 62.060, 395.130, 395.140
454.180-185
In Re: Estate of CALEB POWERS GROSS, deceased
Fred G. Irtz, II having been appointed to act as Administrator by the order of Fayette District Court on the retroactive 2nd day of May, 1997, the principal and surety do hereby covenant and with the Commonwealth of Kentucky in the sum of $* No funds received at this time, for the use and benefit of all parties interest herein and that the principal will faithful perform and discharge all the duties of the aforesaid trust according to law.

Filed and Entered on May 2 1997, and attested by Carla Million

Frederick G. Irtz, II
(Name of Principal)
111 W. Short Street
Lexington, KY 4050
Taken and subscribed before me this 2nd day of May, 1997
Robert M. True, CFCC

Carla Million
(Clerk)

Approved: Julia K. Tackett
(Judge)

Robert Monk, Atty.
(Name of Attorney)
111 W. Short St.

Commonwealth of Kentucky
Fayette District Court
Probate Division

IN RE: CASE NO. 91-P-1247

THE ESTATE OF CALEB P. GROSS

Comes the Administrator, by Counsel, and moves the Court for approval of the attached statement as a proper administration expense of this estate.

_____

ROBERT C. MONK

Frederick G. Irtz, II
Attorney at Law
P. O. Box 22777
Lexington, Kentucky 40522

Estate of Caleb Gross June 1, 1998

STATEMENT

Invoice #11298

	Hrs/Rate	Amount
05/18/98 RM Litigation	0.75	93.75
Review Motion filed by Willard Gross re: removal of Counsel; phone conference with Clerk's Office, Court of Appeals.	125.00/hr	
05/28/98 RM Probate	0.25	31.25
Review Objection to Fees. Estate/Probate	125.00/hr	
For above services	1.00	$125.00
Previous balance		$33,913.66
TOTAL BALANCE DUE		$34,038.66

COMMOMWEALTH OF KENTUCKY

FAYETTE DISTRICT COURT

PROBATE DIVISION

IN; THE ESTATE OF CALEB POWERS GROSS, DECEDENT

CASE NO. 91-P-O1247

MOTION TO TERMINATE

Comes Willard D. Gross, pro se, son and heir of Caleb P. Gross and named in C.P' will under Item 3 and moves the court for the unlawful appointment of attorney Fred Irtz as administrator of C.P. Gross estate in the violation of the follow statutes:

UNDER KRS LAWS

KRS. 395.120 Oath of representatives, Fred Irtz has never Taken the oath as administrator.

KRS 395.130 Bond. Fred Irtz has never filed a bond with the Probate court to act as administrator.

Fred, has to comply with both of the above statutes before he can qualify as administrator of C.P. Gross' estate.

KRS 395.015 Application for appointment of personal Representative. Fred Irtz was appointed Successor Executor of C.P.Gross' estate with Out filing an application as required.

KRS 395.016 Notice of hearing of application. Fred Irtz Never filed an application, therefore, no No hearing could be heard and no notice given.

KRS 395.040 Administrative-person entitled to be appointed The next of kin are to be considered first. C.P. Gross had a large family there are several Candidates available.

Fred Irtz, to this present day is still in violation of the above statutes.

Willard D. Gross and other heirs of C.P. Gross filed notice on July 7, 1997 that the heirs had terminated the unlawful appointment of Fred Irtz. Fred and the court refused to terminate his the unlawful appointment of Fred Irtz. On August 25, 1997, The heirs filed an amended and renewed motion for the termination of Fred Irtz's unlawful appointment. This motion is still before the court.

On September 24, 1997, four months and three weeks after his unlawful appointment, Fred Irtz filed a blank application with only His signature and his attorney are attached. In this he was trying to avoid complying with the above statues. Fred Irtz failed to comply with any statutory provisions concerning his appointment as

administrator; therefore, his appointment is VIOD as a matter of law, effective May 2, 1997. Filed on 15 day of February 2000.

Willard D Gross, pro se
Son and heir of C.P. Gross
6718 Russell Cave Road
Lexington, KY 40511

COMMOMWEALTH OF KENTUCKY

FAYETTE DISTRICT COURT

PROBATE DIVISION

IN: THE ESTATE OF CALEB POWERS GROSS, DECEDENT

CASE NO. 91-P-O1247

MOTION TO TERMINATE

Comes Eugene C. Gross, pro se, son and heir of Caleb P. Gross and named in C.P' will under Item 3 and moves the court for the unlawful appointment of attorney Fred Irtz as administrator of C.P. Gross estate in the violation of the follow statutes:

UNDER KRS LAWS

KRS. 395.120 Oath of representatives, Fred Irtz has never Taken the oath as administrator.

KRS 395.130 Bond. Fred Irtz has never filed a bond with the Probate court to act as administrator.

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~~Never filed an application, therefore,~~ no
No hearing could be heard and no notice
given.

KRS 395.040 Administrative-person entitled to be appointed
The next of kin are to be considered first. C.P.
Gross had a large family there are several
Candidates available.

Fred Irtz, to this present day is still in violation of the above statutes.

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On September 24, 1997, four months and three weeks after his unlawful appointment, Fred Irtz filed a blank application with only his signature and his attorney are attached. In this he was trying to avoid complying with the above statues. Fred Irtz failed to comply with any statutory provisions concerning his appointment as administrator; therefore, his

appointment is VOID as a matter of law, effective May 2, 1997. This document was filed on February 29, 2000.

Eugene C, Gross, pro se
Son and heir of C.P. Gross
P.O. Box 1304
Harlan, KY 40831-1304

App. 31

COMMONWEALTH OF KENTUCKY

FAYETTE DISTRICT COURT

PROBATE DIVISION

IN RE; The Estate of Caleb P. Gross, Deceased

RESPONSE TO MOTION TO TERMINATE

Comes the estate of Caleb P. Gross, by and thorough through Counsel of its administrator Fredrick G Irtz II, and hereby files This response to identical motions filed by various beneficiaries Of the estate entitled, "Motion to Terminate."

This is the latest in a series of motions orchestrated by Mr. Willard D. Gross asking this court to remove the administrator. On two occasions (in both 1997 and 1998) Willard appeal the Order of this court and asked that he be appointed executor. On Both occasions the Fayette Circuit Court upheld the order, and On the second occasion the court of appeals dined discretion review. Willard Gross made the same assertion before those tribunals as he is making here today. First, the oath of office was taken by the administrator upon completion of the bond form, which is contained in the record. Second Bond has never been Applied for, nor has it been ordered by the court because the court

Because the Administrator has yet to take control over any assets of the estate.

When this administrator was appointed, his appointment was immediately appealed to the Fayette Circuit court. At that time, the prior Executor of the estate, Eugene Gross, provided no account to the new administrator of any funds that remained in his hands, and to this date the administrator has received no such accounting. The estate was involved at that time in an action in Fayette against Willard Gross to recover stolen monies stolen from the decedent before his death. At the time of the appointment of this administrator, the court had issued a finding of facts in favor of the estate, but final judgement was not issued for several months. The judgement was appealed by Mr. Gross, and the opinion of the court of appeals upholding the judgement did not Become final until January 3,2000, 30 days after the order denying His petition for rehearing. On January 10, 2000, Willard tendered with the court of appeals a motion titled "motion for annotated order." Despite there being no provisions in the rules for such motion it was filed and considered by the court. Without mention of it's on Willard's ability to file a motion I n the Supreme Court the court of appeals denied this motion on January 18, 2000. The Administrator, expecting a motion for discretionary review to be

filed with the Supreme Court within (30) days of this order (February 17, 2000) has not taken control over the assets as of this time, but intends to file an application for bond as soon as possible after it becomes evident that no further motions will be pending regarding this action. The assets representing that judgement were, and still, held by the master commissioner, or at financial institutions under the supervision of the Fayette Circuit Court.

In the interim, the Fayette Circuit Court upheld the appointment of this administrator. However, the only actions he has taken to date have to defend the appeal filed the appeal filed By Willard in the action involving the estate assets, to defend a law Suit filed against the estate in Harlan Circuit court, to examine assess the nature and amount of assets, both tangible and intangible Owed by the estate in attempt to prepare for their collection and Disbursement, and to respond to numerous motions filed by Willard Gross before this court.

As to Willard's allegations concerning his appointment (i.e., the lack of application for appointment, a formal hearing and his lack of family relationship) these issues have long ago been put to rest by the Fayette Circuit Court in its opinion December 9, 1997 upholding the order appointing this representative.

These Movants have failed to show any grounds as to why the Administrator should be removed at this time. Wherefore, the

Estate of Caleb P. Gross respectfully asks this Court to overrule Mr. Gross' motion.

Respectfully Submitted,

_____

Robert Monk,
Attorney for Frederick G. Irtz, II
Administrator of the Estate of Caleb P. Gross

App. 35

Frederick G. Irtz, II
Attorney at Law
P. O. Box 22777
Lexington, Kentucky 40522

Estate of Caleb Gross — April 1, 2000

STATEMENT

Invoice #11868

Professional Services

		Hrs/Rate	Amount
3/1/00	RM Probate		
	Meeting with Fred Irtz.	0.75	93.75
	Research tax issues	125.00/hr	
	Estate/Probate		
	FGI Probate		
	Conference with R. Monk	2.75	550.00
	About preparing documents	200.00/hr	
	Phone call to IRS in Louisville		
	About statutes of income by		
	Master Commissioner for the		
	Present 10 yrs. Estate/Probate.		
3/6/00	FGI Tax-Income		
	Phone conference with ex	0.75	150.00
	IRS agent about income	200.00/hr	
	Reporting on 1041 form.		

3/16/00	FGI Probate Arrange files received by Eugene Gross. Estate/Probate	5.75 200.00/hr	1,150.00
3/17/00	RM Probate Prepare mtg. Agenda. Mtg. With Fred Irtz. Estate/Probate	2.75 125.00/hr	343.75
	FGI Probate Conference with R. Monk Phone conference with Tom Burnett. **Prepare for Apr. 3 Hearing.** Estate/Probate	1.75 200.00	**350.00**
3/20/00	FGI Probate Fax to R.Monk. Phone Conference with Monk. Research. Estate/Probate	0.75 200.00	150.00
	RM Probate Review fax from Fred Regarding Advancements. Estate/Probate	0.25 125.00/hr	31.25
3/21/00	RM Probate Letter to Fred Irtz Regarding Advancements. Research. Estate/Probate	0.75 125.00/hr	93.75

PUBLISHER'S NOTE:

Page(s) App 37 missing in original.

	Prepare for Hearing. Revise 1041 calculations. Phone conference with Central Bank. Revise 706 and KIT Calculations. Conference with R. Monk. Conference with Tom Burnett. Estate/Probate.	200.00/hr.	
	RM Probate **Prepare for Removal Hearing.** Mtg. With F. Irtz. Estate/Probate.	4.50 125.00/hr	**562.50**
3/31/00	RM Probate **Prepare for Hearing**. Mtg. With F. Irtz. Estate/Probate.	5.75 125.00/hr.	**718.75**
	FGI Probate **Prepare for Hearing**. Estate/Probate	9.00 200.00	**1,800.00**
	PARAL Probate **Prepare for Hearing.** Estate/Probate	3.00 35.00/hr.	**105.00**
	For professional services Rendered.	60.50	$10,236.25
	Previous		$46,194.75
	Balance due		$56,431.00

App. 39

COMMONWEALTH OF KENTUCKY

FAYETTE DISTRICT COURT

PROBATE DIVISION

IN RE; THE ESTATE OF CALEB P.GROSS,

DECEDENT

CASE NO. 91-P-01247

OBJECTIONS

Comes Willard D. Gross, son and heir of Caleb P. Gross And files his OBJECTIONS to the court holding any hearings On any other issues in this case until the Motion to Terminate Fred Irtz' unlawful appointment as Administrator of Caleb P Gross' Estate has been finalized.

Further, Willard D. Gross also object to this court's ruling Denying Willard the right to subpoena Carla Million, clerk of Probate Court to appear before the court in the disputed matter of the fiduciary bond application.

Willard D. Gross pro se
Son and heir of C.P. Gross
6718 Russell Cave Road
Lexington, KY 40511

Certificate of Service

I hereby certify that mailing or hand delivering a true copy

Of the same to the following this 10 day of April 2000 served

The forgoing instrument.

Robert C. Monk

111 West Short street

Lexington, KY 40507

Willard D. Gross, pro se

COMMOMWEALTH OF KENTUCKY
COURT OF JUSTICE
FAYETTE DISTRICT COURT
PROBATE DIVISION

IN; THE ESTATE OF CALEB POWERS GROSS, DECEASED

CASE NO. 91-P-O1247

PARTIAL SETTLEMENT AND PROPOSED FINAL SETTLEMENT

Comes Frederick G. Irtz, II and states that his the duly qualified and acting Administrator with Will Annexed of the Estate of Caleb P. Gross, Deceased, under the Order of this Court and offers this and the attached documents, which are incorporated herein by references as if fully set forth, as his, and the Executor's settlement of the property which has come into the hands of the Executor and/or Administrator with Will Annexed. The Administrator w/w/a requests the Court, pursuant to KRS 395.617 to approve this settlement of this estate and direct him, to pay the assets as herein stated.

The said Administrator w/w/a further states to the best of his knowledge and belief:

1. All legal claims and debts have been paid;
2. A Kentucky Inheritance Tax Return was filed. No return was filed with the Internal Revenue Service because the estate was not sufficiently large to require such a filing; The Kentucky Revenue Cabinet has advised that it will not issue an acceptance letter until all litigation has been completed.
3. All court costs have been paid;
4. The fees through December 31, 2003 of the various attorneys who have represented the estate to date total $99,634.40. The fees of the Executor and Administrator w/w/a are $121, 742.20 to date. It is anticipated the fees will increase due to additional appeals the Estate expects will be filed by Willard Gross. The Administrator w/w/a proposes to retain the sum of $30,000 to offset additional fees caused by Appeals to the Court's Order regarding this accounting.
5. The requirements of KRS 382.135 (4) are not applicable to this estate.
6. The attached accounting, see Exhibit A (which is attached hereto and incorporated herein by references as it fully sets forth), represents this entire administration of this estate to

be best of the knowledge of the affiant. The previously appointed Executor, Eugene Gross, the son of the decedent, has refused to provide any assistance in the preparation of his final accounting and this accounting. The affiant was appointed by this court on May 2, 1997 and can only certify as to the income and disbursements made since his appointment. The Administrator w/w/a has attempted to reconstruct the transaction of the prior Executor from the documents he has been able to obtain.

Pursuant to documents obtained by the undersigned Administrator w/w/a two items were reported to prior accountings, which cannot be located in the checking accounts of the Executor. According to the Executor's First Periodic Accounting, on November 14, 1991, he obtained cash from the lock box of CP Gross in the amount of $1600.00. On or about September 1, 1992 he received a tax refund check from the Internal Revenue Service in the amount of $10,100.00. Apparently the tax refund check was placed in some sort of interest generating account for 23 months, which resulted in the receipt of interest income in the amount of $533.21. The amounts total $12,233.21. Out of these funds, he paid the balance due to Kerr Brothers on the funeral bill in the amount of $4,725.29. The net amount of these transactions is $7,507.92 which was deposited in the Central Bank & Trust

Company, on August 15, 1994 and which becomes the opening deposit.

On November 18, 2000, Eugene Gross filed a Statement claiming the estate owed him $204.80 for travel expenses from Harlan, Kentucky to Lexington Kentucky and return, on July 26, 2000 and November 13,2000 when appearing before the Fayette District Court, Probate Court Division to answer the summonses issued against him. The Administrator w/w/a has denied this claim as an expense of the estate.

Pursuant to prior orders of the court, the previous Executor's fee was set at $20,000. The attached accounting shows how his fee has been paid in full.

7. The specific bequests have been paid in full according to the attached financial statements. None of the specific beneficiaries received, as a part of the specified bequest, a percentage of the Estate's judgment against Willard D. Gross.

8. Laura Gross, as a part of her share of the estate, received a representative percentage of the Estate's judgement against Willard D. Gross. The Administrator proposes to distribute to the Estate of Laura Gross, out of the funds remaining in

his hands, and as a partial distribution, the additional sum of $52,177.46.

9. Each of the remainder beneficiaries received as a part of their interest in this Estate a representative percentage of the Estate's judgment against Willard D. Gross. A calculation of the portion of the judgment against Willard D. Gross which is being distributed is also on the attached calculations. The Administrator proposes to distribute from the remaining funds in his hands, as a partial distribution as follows:

Lillian A. Feghali, Daughter of CP Gross	$8,088.89
Eugene Gross, Son of CP Gross	$17,042.30
Willard D. Gross, Son of CP Gross	$Judgement Offset

The reason the amounts to Eugene Gross and Lillian Feghali are not equal is to equalize the distribution to them. At the time of the earlier partial distribution, certain financial issues relating to funds removed from the Estate by Mr. Gross were unsettled. This Court, in subsequent hearings, has settled those issues. Upon payment, the amounts received by Mr. Gross and Mrs. Feghali, as distribution from the Estate will be equal as follows:

Eugene Gross	
7-3-2000 check #675567	$10,599.30

(Bank of Harlan Litigation Payoff)

Proposed Distribution	$17,042.03
	$27,641.60

Lillian Fegahli

8-17-2000 check #675579	$19,552.71
Proposed Distribution	$8,088.89
	$27,641.60

Litigation: The estate has been involved in extensive litigation caused by various appeals filed by Willard Gross. One appeal has been prosecuted in the name of Jane Gross but it bears all the earmarks of Willard Gross' writing. On August 22, 2003 a Petition for Writ of Certiorari the United Supreme Court was received. At this time that Petition has received no ruling. A copy of the Petition is attached hereto as Exhibit B. The Administrator reasonably believes the Petition will be summarily denied, as was the appeal to the Kentucky Court of Appeals and the appeal to the Kentucky Supreme Court. At this point the estate has been involved in 7 different appeals resulting in 13 separate levels of appeal. A chart of the various appeals is attached hereto as Exhibit C.

9. The Administrator requests the court to approve the proposed accounting, at which time the three payments identified in paragraphs 8 and 9 will be mailed.

The Administrator further requests an Order from the Court that should no further appeals be prosecuted, he be authorized to pay the final expenses and remit the remaining funds in his hands to ½ to the estate of Laura Gross, ¼ to Lillian Feghali and ¼ to Eugene Gross. Upon receipt of the cleared checks the Administrator will file all remaining documents with the Court at which time he requests release from his duties as Administrator of this estate.

Affiant respectfully petitions the Fayette District Court, pursuant KRS 395.600-657, that this settlement be accepted and approved.

I hereby certify that the foregoing is a true and correct statement of the amounts received and paid out by me as Administrator w/w/a of the estate of Caleb P. Gross, Deceased, for the period beginning May 2, 1997, and ending on this date and that the reconstruction of the previous Executor's actions appears to be as represented by is not being warranted.

Frederick G. Irz, II
Administrator, w/w/a

Subscribed in my presence, and sworn to before me by Frederick G. Irtz, II, Administrator w/w/a on April 26, 2004.

My Commission expires: 24 January 2007.

_____
NOTARY PUBLIC, State at Large
Kentucky

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION

IN: THE ESTATE OF CALEB P. GROSS, Deceased
Case No. 91-P-01247

OBJECTIONS TO PARTIAL SETTLEMENT AND PREPOSED FINAL SETTLEMENT MOTION FOR CONTINUANCE

Comes Willard D Gross, pro se and files his objections to partial settlement and proposed final settlement and states As follows:

Fred Irtz proposed settlement is lacking information. Fred Irtz has not presented the court with copies of checks that he has Issued and checks that he has void. Fred Irtz has used (4) sequence Of checks. Fred Irtz must present these checks.

Fred Irtz has not presented any invoices, bills, or receipts, given or taken in his settlement must be full and complete.

Also, the heirs of C.P. Gross are entitled to have an audit preformed on Fred Irtz settlement. This will take time.

Willard Gross objects to Fred Irtz canceling his fiduciary bond #3600-1584 with Bush and Boggs Insurance Company. Fred Irtz is libel to the Estate.

This the 1st day of May 2004.

Respectfully,
Willard d. Gross, pro se
6718 Russell Cave Road
Lexington, KY 40511
858-299-6109

CERTIFICATE OF SERVICE

I hereby certify that the foregoing objections were served by Mailing a true copy of the same to the following person on 1st day Of May 2004.

Thomas Burnett
Attorney at law
156 Market Street
Lexington, KY 40507

Eugene Gross
P.O. Box 1304
Harlan, KY 40831

Ms. Lillian G. Feghali
P.O. Box 697
Caywood, KY 40815

Robert Monk

111 West Short
Lexington, KY 40507

Willard D. Gross pro se

App. 52

COMMONWEALTH OF KENTUCKY
COURT OF JUSTICE
FAYETTE DISTRICT COURT
PROBATE DIVISION
IN RE: THE ESTATE OF CALEB P. GROSS. DECEASED
NO. 91-P-01247

SETTLEMENT CONFIRMATION AND APPROVAL

This matter coming before the court for approval of a periodic Settlement and the court review the settlement, directed it be advised as proscribed by law and hearing the arguments of Willard D. Gross. I, Kevin Horne, Judge of Fayette District court, Probate Division, do here by certify that I have examined and approved the Periodic accounting of Frederick G Irtz, II, as personal Representative for the Estate of Caleb P. Gross, Fayette County, Kentucky pursuant to the settlement filed on April 26, 2004, which is hereby confirmed by the court.

IT IS FURTHER ORDERED that Frederick G. Irtz II, Administrator of the Estate of the Estate of C.P. Gross, deceased Shall pay to Laura Gross the sum of $77,756.34, Lillian A. Gross The sum of $8,088.89 and Eugene Gross the sum of $17.042.30.

Dated May 3, 2004. Filed and Entered May 4, 2004

_____

Judge, Fayette District Court

App.53

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION

OBJECTIONS

Comes Willard D. Gross, pro se and files his objection to Settlement confirmation and approved settlement issue by Judge Kevin Horne filed May on May 4, 2004.

Judge Kevin Horne confirmed and approved settlement filed by Fred Irtz with this court on April 26, 2004. This settlement, of any Money left was to be divided between Laura Gross ½ and LillianFeghali ¼ and Eugene ¼.

The court has raised the sum to be paid to Laura Gross from $52,176.34 to $77,776.30 and left the sum to be paid to Lillian Feghali stand at $8,088.84 and the sum paid to Eugene stand at $17,042,30.

The court is paying Laura Gross $25,000 more than the Settlement filed on April 26, 2004, in which Judge Horne Stated that he made his ruling pursuant to this settlement. The courts settlement confirmation and approval as it stands could be sticky business. The court is again taking $12,500 of the heirs money and giving it to Laura Gross. To go where?

Willard Gross 6718 Russell Cave Road Lexington, KY 40511 Received the settlement confirmation and approval through the Mail stamped May 4, 2004, from Lexington, KY.

It more than appears that Fred Irtz in his own pleadings has made Himself libel under 18 USC Sections1344 Bank Fraud and 18 USC1341 Mail Fraud.

Willard hereby objects to this court making any kind of Settlement in this case and this case be immediately removed From Fayette County Courts and be placed in another jurisdiction. The Federal court.

This the 6th day of May 2004.

Respectfully,

Willard D. Gross, pro se
6718 Russell Cave Road
Lexington, KY 40511